

AGREEMENT
for
TRIAL DISTRIBUTION OF WATER OF FRENCH CREEK STREAM SYSTEM
DURING THE 1954 SEASON

WHEREAS, there is pending in the Superior Court, Siskiyou County, California, an action entitled John H. Mason and Eleanor A. Mason, et al., Plaintiffs, vs. Harry M. Bemrod and Martha Bemrod, et al., Defendants, No. 14478, in which the rights in and to the use of the water of French Creek stream system in Siskiyou County, are involved; and

WHEREAS, the Department of Public Works of the State of California, acting by and through the State Engineer, as referee pursuant to order of said Court, has made an investigation of the stream system, conduits diverting therefrom, lands irrigated or irrigable therefrom, and other matters as provided in said order of reference, and has reduced its observations, data, information, and measurements to writing, and has prepared maps from its surveys and observations, all in accordance with the provisions of the Water Code; and

WHEREAS, it appears from the data collected by said department that it may be possible to work out an allocation of the water of said stream system among the parties hereto that will be acceptable to all of said parties and afford a basis for settlement of the water rights involved in said proceeding; and

WHEREAS, the parties hereto desire diversions from said stream system be administered by the said department during the 1954 season as a demonstration of what may be accomplished in adjustment of the rights involved, and in order to afford said department an opportunity to attempt to develop by trial distribution a just and equitable allocation of the water of said stream system among the parties hereto acceptable to said parties as a basis for settlement of the water rights involved in said cause;

NOW THEREFORE IT IS HEREBY AGREED by and between each and every party hereunto subscribed and among all of said parties, that said department may distribute the water of said French Creek stream system among the various parties hereunto subscribed as hereinafter set forth, it being understood and agreed that the following plan of distribution and apportionment of water shall be for the period extending from the date hereof to October 1, 1954, only, and subject to such provisions as are hereinafter contained, to wit:

1. Evelyn Wolford, John T. Timmons, and LaVerne Dillman; Carl F. Tuttle, Sr., Carl F. Tuttle, Jr., and Robert V. Tuttle; Warren J. Halliday and Negra Halliday, shall be entitled to divert 80 acre-feet per annum from Smith Lake through the Smith Lake Syphon (designated on Division of Water Resources Map as Diversion 15), said water to be released into North Fork French Creek for rediversion therefrom through the North Fork Ditch (designated on Division of Water Resources Map as Diversion 17) and applied to beneficial use for stock water and domestic purposes.

2. Subject to the foregoing right, the rights in and to the water, and in and to the use thereof, from the French Creek stream system are set forth in three groups, namely, North Fork French Creek as set forth in Schedule 1, Miners Creek as set forth in Schedule 2, and French Creek, Payne Lake Creek, Horse Range Creek, and Duck Lake Creek as set forth in Schedule 3; all rights in the two first named groups, as set forth in Schedules 1 and 2, are superior to all rights in the third group as set forth in Schedule 3.

3. Subject to the foregoing rights and provisions, the parties enumerated in Schedule 1, 2, and 3, hereunto annexed and made a part hereof, shall be entitled to rights in and to the use of the natural flows of North Fork French Creek, Miners Creek, Payne Lake Creek, Horse Range Creek, Duck Lake Creek, and French Creek, during the period from the date hereof to October 1, both dates inclusive, in 1954, for domestic, stockwatering, industrial, and irrigation purposes upon their respective lands involved in said proceeding as shown on the

Division of Water Resources Map, in accordance with the acreages to be supplied priorities and quantities of water allotted, and through the diversions from the sources named as set forth in said Schedules 1, 2, and 3.

4. All allotments set forth in said Schedules 1, 2, and 3 which are within the same priority class and within the same group are equal in priority and correlative in right and at all times when the water supply available for rights within a priority class is inadequate to supply all rights and allotments within said class, then during the continuance of such shortage, the owners of such allotments shall prorate the available water supply, if any, in excess of the quantity required for prior rights, or rotate in the use thereof, in accordance with their respective allotments in that class.

5. The points of measurement of all allotments of water hereinbefore provided shall be at or near the respective points of diversion from French Creek and its tributaries.

6. Said department shall have the power and authority to deviate from the plan of distribution set forth herein if in its opinion any changes are necessary or convenient in order to expedite accomplishment of the purposes of this agreement.

7. Nothing herein contained shall be, or shall be construed as, an admission by any party that his legal rights or the legal rights of any other party are as herein provided; and the distribution of water in accordance with this agreement shall not in any way prejudice the rights which are now claimed or may hereafter be asserted by any of the parties hereto.

8. Said department may appoint a watermaster to distribute the water of French Creek stream system as herein provided for, during the period from the date hereof to October 1, 1954, and said watermaster shall have power and authority to inspect and regulate the diversions of all the parties hereto in accordance with this agreement, and in the exercise of such authority may enter upon the

9. It is further agreed that in order to meet the costs of such distribution by the watermaster during the 1954 season, the parties hereto will pay to the Division of Water Resources on or before June 15, 1954, the amount of \$425.00, which amount shall be apportioned among the various parties hereto in accordance with the assessments set forth in Schedule 4 hereunto annexed and made a part hereof.

IN WITNESS WHEREOF, the parties hereto have affixed their hands
this day of , 1954.

[illegible]

SCHEDULE 1

PRIORITIES AND ALLOTMENTS TO VARIOUS WATER USERS FROM NORTH FORK FRENCH CREEK

Name of user	:Acreage : to be :supplied: :	:Diversio: : number : as per : D.W.R. : Map	Name of source	Allotments			
				:in cubic feet per second			
				: Priorities : : 1 : 2 : 3 : Total			
Long-Bell Lumber Company	20.2	16	North Fork French Creek		0.40		0.40
Evelyn Woford, John T. Timmons, LaVerne Dillman	297.2	17	North Fork French Creek	3.29			3.29
Carl F. Tuttle, Sr. Carl F. Tuttle, Jr. Robert V. Tuttle	227.3	17	North Fork French Creek	3.29			3.29
Warren J. and Negra Halliday	24.1	17	North Fork French Creek	0.16			0.16
Calvin A. and Velda C. Ball	7.4	17	North Fork French Creek		0.12		0.12
Valdmar J. and Katie C. Berthelsen	27.6	17	North Fork French Creek		0.46		0.46
Melvin A. and Valeria Caloia	15.8	18 or 19	North Fork French Creek		0.26		0.26
TOTALS	619.6			6.74	0.84	0.40	7.98

SCHEDULE 2

PRIORITIES AND ALLOTMENTS TO VARIOUS WATER USERS FROM MINERS CREEK

Name of user	: Diversion:			: Allotments		
	: Acreage	: number	:	: in cubic feet		
	: to be	: as per	: Name of source	: per second		
	: supplied:	: D.W.R.	:	: Priorities	: Total	
	:	: Map	:	: 1 : 2 : 3	:	
Robert E. and Louise Lewis	11.8	25 or 26	Miners Creek	0.19		0.19
	41.0	27 or 28	Unnamed streams tributary to Miners Creek	0.68		0.68
Alphonso J. Fuglistaler	Domestic	34	Fuglistaler House Spring	0.02		0.02
Walter Tripp	10.4	30	Miners Creek	0.21		0.21
	Domestic	31	Tripp House Spring	0.01		0.01
	Stock- water	32	Tripp Stock Spring	0.01		0.01
George A. and Verna Mae Cail	73.2	33	Miners Creek	1.46		1.46
	6.8	35	Miners Creek		0.14	0.14
Harry M. and Martha B. Bemrod	1.6	37	Miners Creek		0.03	0.03
Eslie E. and William M. Cory	17.8	36	Miners Creek	0.29		0.29
	Domestic	38	Cory Spring	0.01		0.01
TOTALS	215.6			1.21 1.67 0.17		3.05

SCHEDULE 3

PRIORITIES AND ALLOTMENTS TO VARIOUS WATER USERS
FROM FRENCH CREEK, PAYNE LAKE CREEK, HORSE RANGE CREEK, AND DUCK LAKE CREEK

Name of user	:Acreage : to be :supplied	:Diversions :number as :per D.W.R.: : Map	Name of source	: Allotments : in cubic feet per second : Priorities							
				: 1 : 2 : 3 : 4 : 5 : 6 : 7 : 8 : Total							
Alphonso J. Fuglistaler	53.0(a)	2	Duck Lake Creek			2.56					2.56
Walter Tripp	86.5	1	French Creek		2.53						2.53
George A. and Verna Mae Cail	11.2	4	French Creek		0.22						0.22
	73.2(b)	4 or 33	French Creek or Miners Creek		2.56(c)						
J. D. and Ruth A. Proctor	7.7	5	French Creek					0.15			0.15
	2.0	6	Unnamed stream tributary to French Creek				0.04				0.04
	8.0	7	Horse Range Creek					0.16			0.16
	2.4	8	Horse Range Creek					0.05			0.05
	1.0	9	Proctor Domestic Spring				0.02				0.02
Power 41.8 Stock- water		10	Payne Lake Creek				0.90(c)				
		10					0.84				0.84
		12	Proctor Spring				0.01				0.01
Harry M. and Martha B. Benrod	74.6	11	French Creek			2.50					2.50
John M. and Estate of Jennie Griffin	13.2	11	French Creek			0.34					0.34
May Aker	2.0	13	French Creek					0.04			0.04
	4.8	14			0.10						0.10

SCHEDULE 3

PRIORITIES AND ALLOTMENTS TO VARIOUS WATER USERS
FROM FRENCH CREEK, PAYNE LAKE CREEK, HORSE RANGE CREEK, AND DUCK LAKE CREEK
(continued)

Name of user	: Acreage : : to be : : supplied :	: Diversion : : number as : : per D.W.R. : : Map :	Name of source	Allotments in cubic feet per second Priorities							
				1	2	3	4	5	6	7	8
				:	:	:	:	:	:	:	: Total
Eslie E. and William M. Cory	27.8	20	French Creek	0.68							0.68
John H. and Eleanor A. Mason	18.4	20	French Creek	0.36							0.36
	99.5	23 or 39		1.99							1.99
	16.4	40								0.27	0.27
Domestic		41 & 42	Mason Springs	0.02							0.02
Harvey A. and Charles E. Green	40.0	20	French Creek	1.44							1.44
	16.4	43						0.27			0.27
	155.6	44						2.25			2.25
Melvin and Valeria Caloia	19.3	21 or 24	French Creek	0.25	0.07						0.32
	10.1	22			0.20						0.20
R. E. and Vera M. Richman	269.2	43 or 48	French Creek					3.93	0.58		4.51
Carl F. Tuttle, Sr., Carl F. Tuttle, Jr., and Robert V. Tuttle	318.5	43	French Creek							5.31	5.31
Long-Bell Lumber Company	2.4 & Industrial	45	French Creek					0.29			0.29
Valdmar J. and Katie C. Berthelsen	16.8	43	French Creek						0.28		0.28
	10.8	47							0.18		0.18
	Domestic	46	Berthelsen Spring	0.01							0.01

SCHEDULE 3

PRIORITIES AND ALLOTMENTS TO VARIOUS WATER USERS
FROM FRENCH CREEK, PAYNE LAKE CREEK, HORSE RANGE CREEK, AND DUCK LAKE CREEK
(continued)

Name of user	: Acreage : : to be : : supplied :	: Diversion : : number as : : per D.W.R. : : Map :	Name of source	: Allotments : in cubic feet per second : Priorities							
				: 1 :	: 2 :	: 3 :	: 4 :	: 5 :	: 6 :	: 7 :	: 8 :
				: Total							
Calvin A. and Velda C. Ball	14.4	43	French Creek						0.24		0.24
	25.3	47							0.42		0.42
	9.8	48							0.16		0.16
	20.5	44							0.34		0.34
Madelyn Browne	53.2	48	French Creek						0.89		0.89
TOTALS	1,403.2			5.76	3.02	2.84	2.56	6.74	1.46	1.63	5.98
											29.99

- (a) The amount of water delivered to the southerly boundary of the Alphonso J. Fuglistaler ranch shall not exceed 1.06 cubic feet per second.
- (b) The amount of water diverted from either French Creek or Miners Creek as measured near the head of the Cail South ditch (Diversion 33) shall not exceed 1.46 cubic feet per second.
- (c) Not added in totals.

SCHEDULE 4

APPORTIONMENT OF COST OF WATERMASTER SERVICE ON FRENCH CREEK STREAM SYSTEM DURING 1954 SEASON

Name of user	: Continuous flow : : equivalent : : cubic feet : : per second :	Portion of expense
May Aker	0.14	\$ 3.43
Calvin A. Ball and Velda C. Ball	1.28	14.06
Harry M. Bemrod and Martha A. Bemrod	2.53	25.72
Valdmar J. Berthelsen and Katie C. Berthelsen	0.93	10.80
Madelyn Browne	0.89	10.42
George A. Cail and Verna Mae Cail	1.82	19.10
Melvin Caloia and Valeria Caloia	0.78	9.40
Eslie E. Cory and William M. Cory	0.98	11.26
Alphonso J. Fuglistaler	2.58	26.18
Harvey A. Green and Charles E. Green	3.96	39.05
John M. Griffin and Estate of Jennie Griffin	0.34	5.29
Warren J. Halliday and Negra Halliday	0.16	3.62
Robert E. Lewis and Louise Lewis	0.87	10.24
Long-Bell Lumber Company	0.69	8.56
John H. Mason and Eleanor A. Mason	2.64	26.74
J. D. Proctor and Ruth A. Proctor	1.27	13.97
Carl F. Tuttle, Sr., Carl F. Tuttle, Jr. and Robert V. Tuttle	8.60	82.32
R. E. Richman and Vera M. Richman	4.51	44.18
Walter Tripp	2.76	27.86
Evelyn Wolford, John T. Timmons, and Laverne Dillman	3.29	32.80
TOTALS	41.02	\$425.00